

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

4 LIFE INVESTMENTS, INC.,)	
JM REALTY ASSOCIATES, INC.,)	
and MIDWEST PROPERTY)	
MANAGEMENT, LLC,)	
)	Case No.: 1:18-cv-00189
Plaintiffs,)	
)	
Vs.)	
)	
AUTO-OWNERS INSURANCE,)	
)	
Defendant.)	

NOTICE OF REMOVAL

COMES NOW, Defendant, Auto-Owners Insurance, by and through its undersigned counsel, and pursuant to 28 U.S.C. § 1441, respectfully removes this matter to the United States District Court for the Northern District of Indiana, Fort Wayne Division. The grounds for removal are:

1. On March 6, 2018, Plaintiffs filed a civil action against Defendant in the Allen Superior Court in and for the State of Indiana, County of Marion, entitled *4 Life Investments, Inc., JM Realty Associates, Inc., and Midwest Property Management, LLC, plaintiffs, v. Auto-Owners Insurance, Defendant*, under Cause No. 02D01-1803-CT-000129.

2. True and correct copies of all process, pleadings and orders served upon Defendant are attached hereto as the following exhibits:

Exhibit A Summons

Exhibit B Complaint

<u>Exhibit C</u>	Appearance by Plaintiffs' Counsel
<u>Exhibit D</u>	Certificate of Issuance of Summons
<u>Exhibit E</u>	Appearance by Defendant's Counsel
<u>Exhibit F</u>	Jury Trial Request
<u>Exhibit G</u>	Motion for Enlargement of Time
<u>Exhibit H</u>	Order Granting Motion for Enlargement of Time

3. Plaintiffs' Summons and Complaint were served on Defendant on May 21, 2018. Defendant, Auto-Owners Insurance, requested and was granted an enlargement of time to respond to the Complaint to and including July 13, 2018. No other proceedings have taken place in this matter. This Notice of Removal is filed within thirty (30) days of the first day of service pursuant to 28 U.S.C. § 1446(b).

4. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b).

JURISDICTION

5. This is a case over which the Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332 and which may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441, in that it is a civil action in which the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different states.

(a) Plaintiffs were at the time they commenced this case, and still are, citizens of the State of Indiana.

(1) Plaintiff, 4 Life Investments, Inc., is a domestic-for-profit corporation formed in Indiana with its principal office in Fort Wayne, Indiana; it is a citizen of the state of Indiana;

- (2) Plaintiff, JM Realty Associates, Inc., is a domestic-for-profit corporation formed in Indiana with its principal office in Fort Wayne, Indiana; it is a citizen of the state of Indiana; and,
- (3) Plaintiff, Midwest Property Management, LLC, is a domestic limited liability company formed in Indiana; its sole member is Jerry Starks who is a citizen of the state of Indiana;
- (b) Defendant, Auto-Owners Insurance, was at the time Plaintiffs commenced this case, and still is, a Michigan insurance company organized and existing under the laws of the State of Michigan with its principal place of business in the State of Michigan and as such is a citizen of the state of Michigan;
- (c) Defendant, Auto-Owners Insurance, was not at the time Plaintiffs commenced this case, has not been, and is not now, a citizen of the State of Indiana, the state in which Plaintiffs commenced this case.
- (d) Plaintiffs seeks an award of actual damages for an alleged breach of contract of at least \$83,784.00, as well as attorney's fees and damages for alleged bad faith under Indiana Law. *See*, Complaint, ¶ 9.
- (e) Based upon claims for benefits submitted by Plaintiffs to Auto-Owners Insurance under the contract of insurance, Plaintiffs' actual damages, if proven, total a minimum of \$83,784.00.
- (f) Plaintiffs have also made a claim for bad faith against the Defendant and is seeking bad faith damages and attorneys' fees.

(g) Therefore, as of the date of the filing of this Notice, Defendant has a reasonable basis to believe that the amount in controversy is well in excess of \$75,000.

6. Based on the preceding facts, this Court has original subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332, and this case is therefore properly removable to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

7. At the time of filing this Notice of Removal, Defendant has also filed a true and correct copy of this Notice of Removal with the Clerk of the Allen Superior Court in and for the State of Indiana, County of Allen, and have served the same upon Plaintiffs as required by 28 U.S.C. §1446(d).

8. Defendant accordingly requests the removal of this case from the Allen Superior Court in and for the State of Indiana, County of Allen to this Court.

WHEREFORE, Defendant respectfully requests that the above-described action pending in the Allen Superior Court in and for the State of Indiana, County of Allen, be removed therefrom to the United States District Court for the Northern District of Indiana, Fort Wayne Division.

Respectfully submitted,

SMITH FISHER MAAS HOWARD
& LLOYD PC.

/s/ Stephen C. Wheeler
STEPHEN C. WHEELER, #14991-34

SMITH FISHER MAAS HOWARD & LLOYD, PC.
7209 N. Shadeland Avenue
Indianapolis, Indiana 46250
(317) 578-1900
(317) 578-1330 fax
swheeler@smithfisher.com

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 2018, the foregoing was served upon the following persons, by the operation of the Court's electronic filing system and/or by U.S. Regular Mail and U.S. Certified Return Receipt Requested Mail

Christopher C. Myers - cmyers@myers-law.com

Ilene M. Smith - ismith@myers-law.com

CHRISTOPHER C. MYERS & ASSOCIATES

809 S. Calhoun Street, Suite 400

Fort Wayne, IN 46802

Clerk of the Allen Superior Court

715 S. Calhoun Street

Fort Wayne, IN 46802

/s/ Stephen C. Wheeler

Stephen C. Wheeler